

REMARKS

In view of the following remarks responsive to the non-final Office Action dated March 19, 2008, Applicant respectfully requests favorable reconsideration of this application.

Claims 1, 3, 4, 6, 7, and 9-17, 19, and 20 were pending in this application. Claims 1, 7, 14, and 17 are independent.

Applicant offers no claim amendments herein. Accordingly, claims 1, 3, 4, 6, 7, and 9-17, 19, and 20 remain pending in this application.

Applicant respectfully thanks the Office for the withdrawal of all previous rejections. However, the Office has newly, provisionally rejected some claims of the present application for non-statutory double patenting in view of co-pending application No. 10/737,375, which is a continuation-in-part of the instant application. The Office also rejected some claims as obvious over the same co-pending application No. 10/737,375.

There is some confusion in the March 19, 2008 Office Action with respect to the double patenting rejection. Specifically, the third full paragraph on page 3 of the Office Action asserts that claims 3, 6, 9-16, and 19 are rejected for non-statutory double patenting, whereas the discussion following on pages 3-5 appears to assert that claims 3, 9, 12-16, 18-20, and 23 are being rejected for double patenting. Furthermore, some of the claims of the copending application No. 10,737,375 that serve as the basis of the double patenting rejection of some of the claims of the present application have been cancelled from copending application No. 10/737,375, and, therefore, cannot serve as a basis for a double

patenting rejection. Particularly, the Office has provisionally rejected claims 11-16 of the present application over cancelled claims 14-16 and 18-20 of the copending application, respectively. This suggests that the Examiner may not have been aware of the preliminary amendment filed in copending application No. 10/737,375, which substantially amended all of the claims in that application (including the remaining claims upon which other provisional non-statutory double patenting rejections in the present application are based).

Since this is a provisional rejection in an application that is quite likely to issue as a patent prior to copending application No. 10/737,375, the double patenting rejection probably will soon become moot in the present case since it is poised for allowance at this time, whereas Application No. 10/737,375 has not even received a first Office Action at this time. Nevertheless, if the timing of the issuance of the two applications in question is such that this issue must be revisited in this case, Applicant respectfully requests the Office to reconsider the issue of double patenting in view of the claims pending in child application No. 10/737,375 at such time.

With respect to the obviousness rejections, the Office further rejected claims 1, 4, 7, 17, and 20 as obvious under 35 U.S.C. 103(a) over copending application No. 10/737,375, asserting that it has an earlier filing date than the present application, thereby rendering it potentially prior art under 35 U.S.C. 102(e).

Applicant respectfully traverses. The present application has a filing date of September 11, 2003. Copending application No. 10/737,375 has a later filing

date of December 13, 2003 (but claims priority as a continuation in part of the present application). Hence, copending application No. 10/737,375 does not have an earlier filing date than the present application and, therefore, cannot qualify as prior art under and section of the Patent Statute. Hence, Applicant respectfully requests the Office to withdraw the rejection under 35 U.S.C. 103(a) of claims 1, 4, 7, 17, and 20.

In view of the foregoing remarks, this application is now in condition for allowance. Applicant respectfully requests the Office to issue a Notice of Allowance at the earliest possible date. The Examiner is invited to contact Applicant's undersigned counsel by telephone call in order to further the prosecution of this case in any way.

Respectfully submitted,

Dated: June 19, 2008

/Theodore Naccarella/
Theodore Naccarella, Reg. No. 33,023
Saul Ewing LLP
Centre Square West
1500 Market Street
Philadelphia, PA 19102-2186
Telephone: (215) 972-7877
Facsimile: (215) 9723-4161
Attorneys for Applicant